

House File 2392 - Introduced

HOUSE FILE 2392

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2091)

A BILL FOR

1 An Act relating to electronic and mechanical eavesdropping, and
2 the interception of communications.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 727.8, Code 2018, is amended to read as
2 follows:

3 **727.8 Electronic and mechanical eavesdropping.**

4 1. "Monitoring device" means a digital video or audio
5 streaming or recording device that records, listens to, or
6 otherwise intercepts video or audio communications placed
7 outside of a person's dwelling or other structure that is not
8 in a shared hallway and is on real property owned or leased by
9 the person.

10 2. Any person, having no right or authority to do so, who
11 taps into or connects a listening or recording device to any
12 telephone or other communication wire, or who by any electronic
13 or mechanical means listens to, records, or otherwise
14 intercepts a conversation or communication of any kind, commits
15 a serious misdemeanor; ~~provided, that the~~.

16 3. This section does not apply to any of the following:

17 a. The recording by a sender or recipient of a message or
18 one who is openly present and participating in or listening to
19 a communication ~~shall not be prohibited hereby from recording~~
20 such message or communication; ~~and further provided, that~~
21 nothing herein shall restrict the.

22 b. The use of any radio or television receiver to receive
23 any communication transmitted by radio or wireless signal.

24 c. The use of a monitoring device.

25 Sec. 2. Section 808B.2, subsection 2, Code 2018, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. d. It is not unlawful under this chapter
28 for a person who is the owner or renter of real property to
29 intercept an oral communication if the person intercepts the
30 oral communication under all of the following circumstances:

31 (1) The interception of the oral communication is made by a
32 surveillance system placed in or on the real property owned or
33 leased by the person.

34 (2) The surveillance system is installed with the knowledge
35 and consent of all lawful owners or lessees of the real

1 property.

2 (3) The surveillance system is used for the purpose of
3 detecting or preventing criminal activity in or on the real
4 property owned or leased by the person or in an area accessible
5 to the general public in the immediate vicinity of the real
6 property owned or leased by the person.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to illegal electronic and mechanical
11 eavesdropping, and the interception of communications.

12 Currently, it is a serious misdemeanor for a person to
13 tap into or connect a listening or recording device to any
14 telephone or other communication wire, or through electronic or
15 mechanical means to listen to, record, or otherwise intercept a
16 conversation or communication of any kind.

17 Under current law, there are two exceptions to the criminal
18 offense of illegal electronic and mechanical eavesdropping.

19 First, the sender or recipient of a message or a person who
20 is openly present and participating in or listening to a
21 communication is not prohibited from recording such a message
22 or communication. Second, the use of any radio or television
23 receiver to receive any communication transmitted by radio or
24 wireless signal is not prohibited.

25 The bill creates a third exception to illegal electronic and
26 mechanical eavesdropping by permitting the use of a monitoring
27 device.

28 The bill defines "monitoring device" to mean a digital video
29 or audio streaming or recording device that records, listens
30 to, or otherwise intercepts video or audio communications
31 placed outside of a person's dwelling or other structure that
32 is not in a shared hallway and is on real property owned or
33 leased by the person.

34 The bill amends Code section 808B.2 relating to unlawful
35 acts when intercepting a wire, oral, or electronic

1 communication. A person who commits such an unlawful act
2 commits a class "D" felony.

3 It is not an unlawful act under the bill if a person who
4 is an owner or lessee of real property intercepts an oral
5 communication and all of the following apply: the interception
6 of the oral communication is made by a surveillance system
7 placed in or on the real property owned or leased by the
8 person; the surveillance system is installed with the knowledge
9 and consent of all lawful owners or lessees of the real
10 property; and the surveillance system is used for the purpose
11 of detecting or preventing criminal activity in or on the real
12 property owned or leased by the person or in an area accessible
13 to the general public in the immediate vicinity of the real
14 property owned or leased by the person.